IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Crl.MC.No. 2908 of 2007()

CRIME NO.463/06 OF PALARIVATTOM POLICE STATION

PETITIONER:

SINTHILKUMAR, AGED 37 YEARS,
S/O. KUNJAPPAN, KARIMALAPPETTIYIL HOUSE,
AARAKKUNNAM.

BY ADV. SMT.A.R.USHA
SMT.HELAN EARNEST

RESPONDENTS:

---

1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SUNIL, AGED 31 YEARS,
S/O. DAVIS, MANJOORAN HOUSE, THEVAKKAL.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2908 of 2007

Dated this the 18th day of September, 2007

O R D E R

The petitioner faces indictment for an offence punishable under Section 354 I.P.C. The crux of the allegations is that while travelling in a bus at 8.40 a.m on 14.10.06, he had indecently assaulted CW1, a girl, aged about 22 years, who was travelling in the same bus. The victim made a hue and cry. The petitioner was caught as the person who had assaulted her indecently. The defacto complainant later filed a complaint. She identified the petitioner also before the police. Accordingly final report has been filed raising allegations against the petitioner.

2. The petitioner has come to this Court with a prayer that the proceedings initiated against the petitioner may be quashed. What is the reason ? The learned counsel for the petitioner submits that the petitioner is really innocent. He had not in any way indecently assaulted the defacto complainant. According to him, indecent assault was committed by one of the 3 pickpockets who were available in the bus. When the girl raised her voice, the first one who committed the offence had run away from the bus. The other two, to mislead, made false allegation in the presence of others that the petitioner, really an innocent person, was the one who indecently assaulted the girl. There upon the entire people in the bus turned their ire upon the petitioner

and he was proceeded against. In short the contention is that the girl is not properly identifying the real assailant. The petitioner is innocent and hence the petitioner may be saved of further trauma of continued proceedings, submits the learned counsel for the petitioner.

3. I shall carefully not express any opinion on the acceptability of the allegations against the petitioner. But at this stage and with the materials presently on record, it appears to be impossible to accept the request of the petitioner. Absolutely no materials are placed before the Court at this stage to come to the conclusion that the proceedings against the petitioner deserve to be quashed invoking the extraordinary inherent jurisdiction under Section 482 Cr.P.C. It is trite that complicated questions of fact cannot be attempted to be resolved by this Court while exercising its function under Section 482 Cr.P.C. At the moment and with the available materials, I find no reason to invoke the powers under Section 482 Cr.P.C and quash the proceedings against the petitioner.

4. In the result, this Crl.M.C is dismissed. I may, however, hasten to observe that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise all appropriate and necessary contentions in the course of the trial.

(R.BASANT, JUDGE)

rtr/-